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09/928,741	08/13/2001	Eyal Bartfeld	0128US-Eyal	8349

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EXAMINER

WILDER, PETER C

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/928,741

Applicant(s)

BARTFELD, EYAL

Examiner

Peter C. Wilder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 15, 16, 18, 19, 21-23 and 26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 15, 16, 18, 19, 21-23, and 26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/13/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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DETAILED ACTION

The finality of the previous action is withdrawn.

Note to applicant

Art Units 2611, 2614 and 2617 have changed to 2623. Please make all future correspondence indicate the new designation 2623.

In response to the applicants request of number 5 in the "Remarks" the office responded to the applicants amended claims.

Claims 1-5, 19, 21-23 are original.

Claims 16 and 26 are previously presented.

Claims 6, 15, and 18 are amended.

Claims 7-14, 17, 20, 24, 25 are canceled.

Response to Arguments

The applicant argued the final rejection as improper on page 5 because of the addition of a reference to the unamended independent claim 1.

The examiner made an improper final rejection with the addition of a reference to the unamended claims 1-5.

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Applicant's argues the addition of the reference of Brunet (U.S. 5995590) in the remark section of the response as being nonanalogous art.

In response to applicant's argument that Brunet (U.S. 5995590) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, Brunet teaches the text to speech converter which is why the system is being added to the set-top-box system of McKissick. Also, the concept of the combination of references is possible with the processor in the set top box of McKissick as noted in the rejection of claim 1, and the computer of Brunet inherently has to have a processor to function, so both references therefore are combinable. Furthermore, the examiner notes that outputting voice signals in the system of Brunet is the same as sending a message. When two people are talking on a phone at the same time they are sending messages back and forth to one another.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an

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application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 6 is rejected under 35 U.S.C. 102(e) as being anticipated by O'Neal (U.S. 6711154 B1).

Referring to claim 6, O'Neal teaches the text to voice device wherein said target messaging system is a unified messaging system (Column 8 lines 60-61 teaches text to audio conversion and Figure 4 and Column 7 lines 56-67 and Column 8 lines 1-36 teaches a unified messaging system).

Claims 1, 2, 4-6, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKissick et al. (EP 1458193 A2) in view of Brunet et al. (U.S. 5995590).

Referring to claim 1, McKissick teaches a set-top box in communication with the television messaging system (§ [0024] teaches a messaging system with communication path 24 and § [0025] teaches using a set top box which in figure 1A is connected to communication path 24, § [0030] teaches the television distribution facility element 16 in figure 1A also connected to communication path 24 which contains messaging equipment element 22), and adapted to deliver a message through a television coupled thereto (§ [0038] teaches a television

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connected to the set top box to display or deliver a message, see Figure 1A element 30);

a text receiving module executed in the set-top box (¶ [0039] teaches a keyboard, figure 1B element 34, in communication with set-top box 34 for entering messages which can be displayed on the screen so there has to be some module in the set-top box to receive the messages from the keyboard, ¶[0033] teaches a processor in the set-top box to handle television message features), and adapted to receive text from a user (¶ [0039] teaches a user can enter the messages in);

but fails to teach, a text to speech module coupled to said text receiving module for transforming said text into speech, said text to speech module adapted to produce a voice output corresponding to said text; and, a voice delivery module adapted to deliver said output to a target messaging system capable of receiving voice messages.

In an analogous art Brunet teaches a text to speech module coupled to said text receiving module for transforming said text into speech (Column 2 lines 51-58 teaches a computer being used to convert text to speech before the message is transmitted and Figure 1 teaches the text to speech module element 12 coupled to the keyboard element 14) said text to speech module adapted to produce a voice output corresponding to said text (Column 2 lines 51-58 teaches a computer being used to convert text to speech before the message is transmitted); and,

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a voice delivery module adapted to deliver said output to a target messaging system capable of receiving voice messages (Figure 1 element 18 and Column 2 lines 31-34 teaches a voice delivery module, and Column 4 lines 27-32 and Figure 14 teach transmitting a voice message to a voice message receiver).

At the time the invention was made it would have been obvious for one skilled in the art to modify the messaging system of McKissick using the text to speech converting system of Brunet for the purpose of allowing a person who is mute to carry out a conversation with a person that is deaf.

Referring to claim 2, depending on claim 1, McKissick teaches a text entry device to deliver user typed text to said text receiving module (Paragraph [0039] teaches a keyboard, figure 1B element 34, in communication with set-top box 34 for entering messages which can be displayed on the screen so there has to be some module in the set-top box to receive the messages from the keyboard).

Referring to claim 4, depending on claim 1, Brunet teaches the output delivery module is adapted to transmit said output to the target voice messaging system in a speech format (Column 2 lines 31-36 teaches transmitting synthesized speech to a telephone microphone to be transmitted).

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Referring to claim 5, depending on claim 1, where McKissick teaches set-top box is adapted to be coupled on an IP network and deliver said output there through (Paragraph [0027] along with figure 1A teaches a set-top box in communication with the internet which is an IP network).

Referring to claim 6, [depending on claim 1], Brunet teaches the text to voice device wherein said target messaging system is a unified messaging system (Figure 1 and Column 2 lines 23-61 teaches a unified messaging system).

Referring to claim 15 McKissick teaches a text to voice messaging system operating in conjunction with a television messaging system having a television messaging system, the text messaging system comprising:

a server located remotely to a user premises (Figure 1A shows element 22 Message equipment server ¶ [0034], remote from element 26 the set top box), said server adapted to deliver messaging to a television via a downstream network (¶ [0027] teaches communication paths element 24 that messages are sent down),

a set top box coupled to said downstream network (Figure 1A element 26 is a set top box),

a text entry device in communications with said set top box (Figure 1B shows element 34 which is a wireless keyboard, Column 10 lines 45 –48), for

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text entry by a user (if a keyboard is used it is obvious that the user is typing in the text);

a voice delivery module adapted to deliver said output to a target messaging server adapted to receive voice messages (Paragraph 24 teaches the messages can be audio so a voice delivery module has to exist, and Figure 1A and Paragraph 34 teach an upstream network interface element which includes element 22 and server).

but fails to teach a [text to speech] module adapted to produce output representative said text in speech format.

In an analogous art Brunet teaches a [text to speech] module adapted to produce output representative said text in speech format (Column 2 lines 51-58 teaches a computer being used to convert text to speech before the message is transmitted);

and, a voice delivery module adapted to deliver (Figure 1 element 18 and Column 2 lines 31-34 teaches a voice delivery module).

At the time the invention was made it would have been obvious for one skilled in the art to modify the messaging system of McKissick using the text to speech converting system of Brunet for the purpose of allowing a person who is mute to carry out a conversation with a person that is deaf.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKissick et al. (EP 1458193 A2) in view of Brunet et al. (U.S 5995590) further in view of O'Neal (U.S. 6711154 B1).

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Referring to claim 3, depending on claim 1, McKissick and Brunet fail to teach said output delivery module is adapted to transmit said output to the target voice messaging system in a voice data file format.

In an analogous art O'Neal teaches said output delivery module is adapted to transmit said output to the target voice messaging system in a voice data file format (Column 8 lines 44-59 teaches converting a message to Real Audio format prior to delivery).

A the time the invention was made it would have been obvious for one skilled in the art to modify the combined systems of McKissick and Brunet with the voice data file formatted message delivery system of O'Neal for the purpose of being able to access all of his/her messages, regardless of message type, via a unified system, from either a computer or telephone (Column 3 lines 45-47, O'Neal).

Claims 16, 18, 19, 22, 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKissick et al. (EP 1458193 A2) in view of Brunet et al. (U.S 5995590) further in view of Ellis et al. (U.S. 6774926 B1).

Referring to claim 16 McKissick teaches a messaging method (Paragraph [0019]) comprising the steps of:

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outputting a message to a user using a television (Column 34 ¶ [0119] the examiner reads outputting a message as sending the message);

teaches receiving a response message from a user (¶ [0042] teaches exchanging messages with other users so one user has to be receiving a message), said response comprising text (¶ [0030] teaches messages can involve text);

delivering said output to a messaging server adapted to receive voice messages (Paragraph 24 teaches the messages can be audio so a voice delivery module has to exist, and Figure 1A and Paragraph 34 teach an upstream network interface element which includes element 22).

but fails to teach in a set-top-box transforming said text into an output in a speech format.

In an analogous art Brunet teaches transforming said text into an output in a speech format (Figure 1 element 18 and Column 2 lines 31-34 teaches a voice delivery module and Column 2 lines 51-61 teach a text to speech converter in a computer).

At the time the invention was made it would have been obvious for one skilled in the art to modify the messaging method of McKissick using the text to speech converting system of Brunet for the purpose of allowing a person who is mute to carry out a conversation with a person that is deaf.

McKissick and Brunet fail to teach a set-top box.

In an analogous art Ellis teaches a set-top box is the same as a computer (Figure 1 teaches user computer equipment element 38 and Figure 4 teaches the

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equipment can included a personal computer and Column 5 lines 60-67 teaches the computer can receive television programming which is what a set-top box does).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined methods of McKissick and Brunet using the set-top box method of Ellis for the purpose of a user being able use their computer which has all the functions of a set-top box and more instead of two separate systems.

Referring to claim 18, depending on claim 16, McKissick teaches said set top box is coupled to a data network and wherein said step of delivering is performed via said data network (Paragraph [0024] teaches messaging being done on a data path 24 in figure 1A).

Referring to claim 19, depending on claim 18, McKissick teaches said data network is an Internet (Paragraph [0027] top of Column 8 line 2)

Referring to claim 22, depending on claim 16, it is inherent that said output comprises electrical signals representing said speech (Any type of signal representing speech or any type of information digital or analog in a wire is electric, and any type of signal traveling through the air is electromagnetic which is a type of an electric signal).

Referring to claim 23, depending on claim 22, McKissick teaches a said step of delivering is performed by feeding said signals to a telephone network (Column 7 lines 11-22 teaches the use of telephone lines along data path 24).

Referring to claim 26, McKissick teaches a set-top box operating in conjunction with a television messaging system and adapted to deliver a message through a television coupled thereto (Figures 1A and paragraph [0024]), the set-top box comprising:

a text receiving module executed in the set-top box (Column 10 lines 42 – 45 and Column 9 lines 11-18 teach the set-top box having a processor to process the received signals from the keyboard), coupled to a keyboard for receiving text from a user ([0039] along with figure 1B teach a keyboard);

a voice delivery module adapted to deliver said output to a target messaging system capable of receiving voice messages (Paragraph 24 teaches the messages can be audio so a voice delivery module has to exist); and, an upstream network interface capable of delivering said output (Figure 1A and Paragraph 34 teach an upstream network interface element which includes element 22),

but fails to teach a text to speech module coupled to said text receiving module for transforming said text into speech, said text to speech module adapted to produce a voice output corresponding to said text.

In an analogous art Brunet teach a text to speech module coupled to said text receiving module for transforming said text into speech (Column 2 lines 51-58 teaches a computer being used to convert text to speech before the message is transmitted and Figure 1 teaches the text to speech module element 12 coupled to the keyboard element 14).

At the time the invention was made it would have been obvious for one skilled in the art to modify the messaging method of McKissick using the text to speech converting system of Brunet for the purpose of allowing a person who is mute to carry out a conversation with a person that is deaf.

McKissick and Brunet fail to teach a set-top box, and delivering said output to a messaging server adapted to receive voice messages.

In an analogous art Ellis teaches a set-top box is the same as a computer (Figure 1 teaches user computer equipment element 38 and Figure 4 teaches the equipment can included a personal computer and Column 5 lines 60-67 teaches the computer can receive television programming which is what a set-top box does).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined methods of McKissick and Brunet using the set-top box method of Ellis for the purpose of a user being able use their computer which has all the functions of a set-top box and more instead of two separate systems.

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Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKissick et al. (EP 1458193 A2) in view of Brunet et al. (U.S. 5995590) further in view of Ellis et al. (U.S. 6774926 B1) further in view of O'Neal (U.S. 6711154 B1).

Referring to claim 21, depending on claim 16, McKissick, Brunet, and Ellis fail to teach said output is in the form of a file containing data representing said speech.

In an analogous art O'Neal teaches said output is in the form of a file containing data representing said speech (Column 8 lines 44-59 teaches converting a message to Real Audio format prior to delivery).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined methods of McKissick, Brunet, and Ellis with the voice data file formatted message delivery system of O'Neal for the purpose of being able to access all of his/her messages, regardless of message type, via a unified system, from either a computer or telephone (Column 3 lines 45-47, O'Neal).

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter C. Wilder whose telephone number is 571-272-2826. The examiner can normally be reached on 8 AM - 4PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571)272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PW



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